

PKMG LAW CHAMBERS

**ADVOCATES AND SOLICITORS
MONTHLY LAW REPORT FOR JUNE,2018**

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REGULATORY UPDATES (Notifications/Circulars)

Notification&Circular No.	Date of issue	Subject
<p>1. Ministry of Corporate Affairs</p> <p>Notification- S.O.3145(E).</p>	<p>28th June 2018</p>	<p>Establishment of National Company Law Tribunal, Jaipur Bench at Jaipur.</p> <p>In exercise of the powers conferred by sub-section (1) of section 419 of the Companies Act, 2013.</p> <p>The Central Government hereby establishes the National Company Law Tribunal, Jaipur Bench at Jaipur and for the said purpose further amends the notification of the Ministry of Corporate Affairs number S.O. 1935 (E), dated the 1st day of June, 2016, namely:—</p> <p>2. In the said notification, in the Table, - (i) in serial number 1, in column number (4), the entry “(2) State of Rajasthan”, shall be omitted; (ii) after serial number 10 and the entries thereto, the following shall be inserted namely:- “11 National Company Law Tribunal, Jaipur Bench Jaipur (1) State of Rajasthan.”</p> <p>3. This notification shall come into force on the 1st day of July, 2018.</p>
<p>2. MINISTRY OF CORPORATE AFFAIRS</p> <p>NOTIFICATION - G.S.R.569(E)</p>	<p>18th June 2018</p>	<p>Amendment in the Companies (accounting standards) rules, 2006</p> <p>In exercise of the powers conferred by clause (a) of sub-section (1) of section 642 of the Companies Act, 1956 read with section 210A and sub-section (3C) of section 211 and of the said Act.</p> <p>the Central Government, in consultation with National Advisory Committee on Accounting Standards, hereby makes the following rules to amend the Companies (Accounting Standards) Rules, 2006, namely:—</p> <p>1. Short title and commencement.—</p> <p>(1) These rules may be called the Companies (Accounting Standards) Amendment Rules, 2018.</p> <p>(2) They shall come into force on the 1st day of April, 2018.</p> <p>2. In the Companies (Accounting Standards) Rules, 2006, in the “annexure”, under the</p>

		<p>heading “accounting standards” under “Accounting Standard (AS) 11”, for the paragraph 32, the following paragraph shall be substituted, namely :—</p> <p><i>“32. An enterprise may dispose of its interest in a non-integral foreign operation through sale, liquidation, repayment of share capital, or abandonment of all, or part of, that operation. The payment of a dividend forms part of a disposal only when it constitutes a return of the investment. Remittance from a non-integral foreign operation by way of repatriation of accumulated profits does not form part of a disposal unless it constitutes return of the investment. In the case of a partial disposal, only the proportionate share of the related accumulated exchange differences is included in the gain or loss. A write-down of the carrying amount of a non-integral foreign operation does not constitute a partial disposal. Accordingly, no part of the deferred foreign exchange gain or loss is recognised at the time of a write-down”.</i></p>
<p>3.MINISTRY OF CORPORATE AFFAIRS</p> <p>NOTIFICATION - G.S.R. 561 (E).—</p>	<p>13th June 2018</p>	<p>Enforcement of Companies (Significant Beneficial Owners) Rules, 2018</p> <p>In exercise of the powers conferred by Section 90 read with sub-section (1) of section 469 of the Companies Act, 2013,</p> <p>the Central Government hereby makes the following rules, namely :-</p> <p>1. Short title and commencement.—</p> <p>(1) These rules may be called the Companies (Significant Beneficial Owners) Rules, 2018.</p> <p>(2) They shall come into force on the date of their publication in the Official Gazette.</p> <p>2. Definitions.-</p> <p>(1) In these rules, unless the context otherwise requires,-</p> <p>(a) “Act” means the Companies Act, 2013</p> <p>(b) "form" means the form specified in Annexure to these rules;</p> <p>(c) “registered owner” means a person whose name is entered in the register of members of a company as the holder of shares in that company but who does not hold beneficial interest in such shares;</p> <p>(d) “section” means a section of the Act</p> <p>(e) “significant beneficial owner” means an individual referred to in sub-section (1) of section 90 (holding ultimate beneficial interest of not less than ten per cent.) read with sub-</p>

section (10) of section 89, but whose name is not entered in the register of members of a company as the holder of such shares, and the term 'significant beneficial ownership' shall be construed accordingly;

Explanation I. - For the purpose of this clause, the significant beneficial ownership, in case of persons other than individuals or natural persons, shall be determined as under—
(i) where the **member is a company**, the significant beneficial owner is the natural person, who, whether acting alone or together with other natural persons, or through one or more other persons or trusts, holds not less than ten percent. share capital of the company or who exercises significant influence or control in the company through other means;

(ii) where the **member is a partnership firm**, the significant beneficial owner is the natural person, who, whether acting alone or together with other natural persons, or through one or more other persons or trusts, holds not less than ten per cent. of capital or has entitlement of not less than ten per cent. of profits of the partnership;

(iii) where **no natural person is identified under (i) or (ii)**, the significant beneficial owner is the relevant natural person who holds the position of senior managing official;

(iv) where (**through trustee**), the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with not less than ten per cent. interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership;

Explanation II.—It is hereby clarified that instruments in the form of global depository receipts, compulsorily convertible preference shares or compulsorily convertible debentures shall be treated as 'shares' for the purpose of this clause;

(2) Words and expressions used in these rules but not defined and defined in the Act or in Companies (Specification of Definitions Details) Rules, 2014 shall have the meanings respectively assigned to them in the Act and the said Rules.

3. Declaration of significant beneficial ownership in shares under section 90

(1) Every significant beneficial owner shall file a declaration in **Form No. BEN-1** to the company in which he holds the significant beneficial ownership on the date of commencement of these rules within ninety days from such commencement and within thirty days in case of any change in his significant beneficial ownership.

(2) Every individual, who, after the commencement of these rules, acquires significant beneficial ownership in a company, shall file a declaration in **Form No. BEN-1** to the company, within thirty days of acquiring such significant beneficial ownership or in case of any change in such ownership.

4. Return of significant beneficial owners in shares

Where any declaration under rule 3 is received by the company, it shall file a return in **Form No. BEN-2** with the Registrar in respect of such declaration, within a period of thirty days from the date of receipt of declaration by it, along with the fees as prescribed in Companies (Registration offices and fees) Rules, 2014.

5. Register of significant beneficial owners

(1) The company shall maintain a register of significant beneficial owners in **Form No. BEN-3**.

(2) The register shall be open for inspection during business hours, at such reasonable time of not less than two hours, on every working day as the board may decide, by any member of the company on payment of such fee as may be specified by the company but not exceeding fifty rupees for each inspection.

6. Notice seeking information about significant beneficial owners

A company shall give notice seeking information in accordance with under sub-section (5) of section 90, in **Form No. BEN-4**.

7. Application to the Tribunal

The company may apply to the Tribunal in accordance with sub-section (7) of section 90, for order directing that the shares in question be subject to restrictions, including –

- (a) restrictions on the transfer of interest attached to the shares in question;
- (b) suspension of the right to receive dividend in relation to the shares in question;
- (c) suspension of voting rights in relation to the shares in question;
- (d) any other restriction on all or any of the rights attached with the shares in question.

8. Non-Applicability

These rules are not made applicable to the

		<p>holding of shares of companies/body corporates, in case of pooled investment vehicles/investment funds such as Mutual Funds, Alternative Investment Funds (AIFs), Real Estate Investment Trusts(REITs) and Infrastructure Investment Trusts (InvITs) regulated under SEBI Act.</p>
<p>4. MINISTRY OF CORPORATE AFFAIRS NOTIFICATION- G.S.R. 560(E)</p>	<p>13th June 2018</p>	<p>Amendment in the Companies (Management and Administration) Rules, 2014 In exercise of the powers conferred by sub-sections (1) and (2) of section 469 read with sections 93,94, 96 and 110of the Companies Act, 2013.</p> <p>the Central Government hereby makes the following rules further to amend the Companies (Management and Administration) Rules, 2014, namely:-</p> <p>1. (1) These rules may be called the Companies (Management and Administration) Second Amendment Rules,2018. (2) They shall come into force on the date of their publication in the Official Gazette.</p> <p>2. In the Companies (Management and Administration) Rules, 2014, (i) rule 13 shall be omitted; (ii) in rule 15, the sub-rule(6), shall be omitted; (iii) in rule 18, in sub-rule (3), Explanation afterclause (ix), shall be omitted; (iv) in rule 22, in sub-rule(16) for the proviso, the following shall be substituted, namely:-</p> <p><i>"Provided that any aforesaid items of business under this sub-rule, required to be transacted by means of postal ballot, may be transacted at a general meeting by a company which is required to provide the facility to members to vote by electronic means under section 108, in the manner provided in that section: Provided further that One Person Companies and other companies having members upto two hundred are not required to transact any business through postal ballot"</i></p> <p>(v) the "Form No.MGT-10" shall be omitted.</p> <p><u>Observations:</u> Following rules shall stand omitted; Rule 13 Return of changes in shareholding position of promoters and top ten shareholders.- Rule 15(6) A copy of the proposed special resolution in advance to be filed with the registrar as required in accordance with first proviso of sub-section (1) of section 94, shall be filed with the Registrar, at least</p>

		<p>one day before the date of general meeting of the company in Form No.MGT.14.</p> <p>Rule 18(3)(ix) Explanation.- For the purpose of this rule, it is hereby declared that the extra ordinary general meeting shall be held at a place within India.</p>
<p>5. MINISTRY OF CORPORATE AFFAIRS</p> <p>NOTIFICATION- G.S.R. 558 (E).—</p>	<p>12th June 2018</p>	<p>Amendment in the Companies (Appointment and Qualification of Directors) Rules, 2014</p> <p>In exercise of the powers conferred by section 149 and 168 of read with section 469 of the Companies Act, 2013),</p> <p>the Central Government hereby makes the following rules further to amend the Companies (Appointment and Qualification of Directors) Rules, 2014, namely:-</p> <p>1. (1) these rules may be called the Companies (Appointment and Qualification of Directors) Third Amendment Rules, 2018.</p> <p>(2) They shall come into force on the date of their publication in the Official Gazette.</p> <p>2. In the Companies Appointment and Qualification of Directors) Rules, 2014, in the annexure,</p> <p>(i) for form DIR-3, the following form shall be substituted;-</p>
<p>7. MINISTRY OF CORPORATE AFFAIRS</p> <p>NOTIFICATION-. G.S.R. 557(E).</p>	<p>12th June 2018</p>	<p>Amendment in the Limited Liability Partnership Rules, 2009</p> <p>In exercise of the powers conferred by sub-sections (1) and (2) of section 79 of the Limited Liability Partnership Act, 2008,</p> <p>The Central Government hereby makes the following rules further to amend the Limited Liability Partnership Rules, 2009, namely:—</p> <p>1. (1) Short Title and commencement. - These rules may be called the Limited Liability Partnership (Amendment) Rules,2018.</p> <p>(2) They shall come into force on the date of their publication in the Official Gazette.</p> <p>2. In the Limited Liability Partnership Rules, 2009, in rule 10, -</p> <p>(a) for sub-rule(1), the following sub-rule shall be substituted, namely: -</p> <p><i>“(1) Every individual, who intends to be appointed as a designated partner of an existing limited liability partnership, shall make an application electronically in Form DIR-3 under the Companies(Appointment and Qualifications of Directors) Rules, 2014</i></p>

		<p><i>for obtaining DPIN under the Limited Liability Partnership Act, 2008 and such DIN shall be sufficient for being appointed as designated partner under the Limited Liability Partnership Act, 2008.”.</i></p> <p>(b) in sub-rule (4), for clause (i) , the following clause shall be substituted, namely: - <i>“(i) Every individual who has been allotted a DPIN or DIN under these rules, shall in the event of any change in his particulars, make an application in Form DIR-6 under Companies (Appointment and Qualifications of Directors) Rules, 2014 to intimate such change(s) to the Central Government within a period of thirty days of such change(s).”</i></p>
<p>8. MINISTRY OF CORPORATE AFFAIRS</p> <p>NOTIFICATION-S.O. 2422(E)</p>	<p>13th June 2018</p>	<p>Following Provisions of the Companies (Amendment) Act, 2017 came into effect as on 13th June 2018</p> <p>In exercise of the powers conferred by sub-section (2) of section 1 of the Companies (Amendment) Act, 2017, the Central Government hereby appoints the 13th June, 2018 as the date on which the following provisions of the said Act shall come into force, namely :—</p> <ol style="list-style-type: none"> 1. Section 22 - (Substitution of new section for section 90 of The Companies Act 2013). Register of significant beneficial owners in a company 2. Section 24 - Section 93 of The Companies Act 2013 shall be omitted. 3. Section 25 - Amendment of section 94 The Companies Act 2013. 4. Section 26 - Amendment of section 96 The Companies Act 2013. 5. Section 71 - Amendment of section 216 The Companies Act 2013.
<p>9. MINISTRY OF CORPORATE AFFAIRS</p> <p>NOTIFICATION-S.O. 559(E).</p>	<p>13th June 2018</p>	<p>Amendment in the Companies (Registered Valuers and Valuation) Rules, 2017</p> <p>In exercise of the powers conferred by section 247 read with section 469 of the Companies Act,2013</p>

		<p>the Central Government hereby makes the following rules further to amend the Companies(Registered Valuers and Valuation) Rules, 2017, namely:-</p> <p>1. (1) These rules may be called the Companies (Registered Valuers and Valuation) Second Amendment Rules, 2018. (2) They shall come into force on the date of their publication in the Official Gazette.</p> <p>2. In the Companies (Registered Valuers and Valuation) Rules, 2017, in rule 19, in sub-rule 2, after clause (g), the following clause shall be inserted, namely:- <i>“(h) Presidents of, the Institute of Chartered Accountants of India, the Institute of Company Secretaries of India, the Institute of Cost Accountants of India as ex-officio members.”.</i></p>
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Companies Act, 2013 Case Studies
By Advocate P.K Mittal, +91-9811044365

- ◆ Where section 232 of companies act 2013 gives power to the nclt to consider and decide calling of meeting of creditors, the discretion has to be exercised judicially and the reasons for calling the meeting has to be duly recorded in writing. Thereafter, the appellant company cannot claim dispensing with meeting as a right. **MEGA CORPORATION LTD. MANU/NL/0055/2018**

- ◆ The company law board is not empowered to go into the merits of the charge created by a company under Companies Act, 2013, and declare it null and void. If it does so, then it would be open for the petitioner to raise the challenge relating to the authenticity of the documents in the tribunal. **PEARL ENGINEERING POLYMERS LTD VS. DEUTSCHE BANK AG, LONDON AND ORS. MANU/MH/0405/2018**

- ◆ NCLT held that the provisions of Companies Act,2013 shall be applicable on banking companies also except insofar inconsistent with banking regulations. Thus, the petition for rectification of register of members under section 58 and 59 is maintainable against a banking company also. **KAMLESH KALIDAS SHAH VS. STATE BANK OF INDIA MANU/NC/4388/2018**

- ◆ It has been held that NCLT has no power to review its own order. Although it has got power to rectify its order if there is any mistake apparent from the record. **SURESH NARAYAN VIJAY VS. PGH INTERNATIONAL PVT. LTD. MANU/NC/4388/2018**

- ◆ The Company issues convertible debentures at premium which will get converted into equity shares at lower premium. NCLAT held that the security premium account shall be treated as paid up share capital of the Company u/s 52 of the Companies Act 2013. This is merely a case of rectification of wrongful calculation of share capital and securities premium and not reduction of share capital. Further, It directs Company to cancel allotted shares and ratify its register without resorting to reduction of share capital. **LSI-297-NCLAT-2018(NDEL)**

Insolvency and Bankruptcy Code, 2016 Judgements By Advocate P.K. Mittal, +91-9811044365

- ◆ Where the corporate debtor fails to bring to the notice of adjudicating authority regarding the pendency of arbitration proceedings, then the application filled for seeking ex parte interim relief against the order of arbitrator shall not be held valid. **KS OILS LTD V. SREI INFRASTRUCTURE FINANCE LTD. AND ORS. MANU/NC/7463/2017**

- ◆ Where no data on record is available on the side of the respondent to satisfy that there was a pre existing dispute between the parties prior to the date of receipt of demand notice. Then, it cannot further raise any contention regarding the pending dispute and the petition shall be held maintainable under section 9 of Insolvency and bankruptcy code, **Badjate stock&shares pvt. Ltd v. Snowblue trexim pvt. Ltd.MANU/NC/2649/2017**

- ◆ NCLT holds that reconsideration of resolution plan was perfectly valid even after the expiry of extended period of Corporate insolvency resolution process. The provisions of sec.12 of IBC,2016 contains no restriction upon the NCLT to exclude interparty litigation period for computing 270(180+90) days of CIRP. **LSI-332-NCLT-2018(KOL)**

- ◆ Where the debt has not arisen out of the provisions of goods or services or employment dues or government dues, the claim shall not be considered as an 'operational debt' under IBC. Furthermore, the application filed under section 9 cannot be converted into section 7 IBC. The maintainability of the application depends upon the discretion of the court itself. **Sanjeev jain v. Eternity infracon(P.) Ltd. MANU/NC/0586/2017**

- ◆ NCLT dismissed petition filed by operational creditor on the ground that there was pre existing dispute on pending tax liability in respect of work contract before the receipt of the demand notice u/s 8 of IBC,2016. **Dolphin offshore enterprises (India) ltd. V. Instrumentation ltd. MANU/NC/1732/2017**

**Income Tax Circulars, Notifications and Press Release
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Notification&Circular No.	DATE OF ISSUE	SUBJECT
1. Ministry of Finance Notification no. 28/2018	18 th June 2018	The Central Government hereby specifies the “Indian Railway Finance Corporation Limited 54EC Capital Gains Bond” In exercise of the powers conferred by clause (iib) of the proviso to section 193 of the Income-tax Act, 1961, The Central Government hereby specifies the “Indian

		<p>Railway Finance Corporation Limited 54EC Capital Gains Bond” issued by Indian Railway Finance Corporation Limited for the purpose of the said clause. Provided that the benefit under the said proviso shall be admissible in the case of transfer of such bonds by endorsement or delivery, only if the transferee informs Indian Railway Finance Corporation Limited by registered post within a period of sixty days of such transfer.</p>
<p>2. MINISTRY OF Finance</p> <p>Notification no. 27/2018</p>	<p>18th June 2018</p>	<p>Central Government hereby specifies the “Power Finance Corporation Limited 54EC Capital Gains Bond</p> <p>In exercise of the powers conferred by clause (iib) of the proviso to section 193 of the Income-tax Act, 1961, the Central Government hereby specifies the “Power Finance Corporation Limited 54EC Capital Gains Bond” issued by Power Finance Corporation Limited for the purpose of the said clause. Provided that the benefit under the said proviso shall be admissible in the case of transfer of such bonds by endorsement or delivery, only if the transferee</p>

		informs Power Finance Corporation Limited by registered post within a period of sixty days of such transfer.
3. Ministry of Finance Notification No. 29/2018	22th June 2018	<p>CBDT ISSUES NOTIFICATION ON ASSESSMENT OF FOREIGN BECOMING RESIDENT ON THE BASIS OF POEM, THAT IS PLACE OF EFFECTIVE MANAGEMENT 115JH</p> <p>The CBDT vide notification No. 29/2018/ F.No. 370142/19/2017-TPL has laid down the procedure to computation of total income, treatment of unabsorbed depreciation, set off or carry forward and set off of losses, collection and recovery and special provisions relating to avoidance of tax for the said previous year with exceptions, modifications and adaptations specified here under to compute tax in different circumstances in the case of foreign company being resident by virtue of POEM, Place of effective management.</p>
4. Ministry of Finance Notification No. 26/2018	13th June 2018	<p>CBDT NOTIFIES COST INFLANATION INDEX FOR F.Y.2018-19</p> <p>CBDT vide notification No. 26/2018/F.No.370142/3/2018-TPL has specified the Cost Inflation Index for F.Y.2018-19 to be 280.</p>

Income Tax Case Studies
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Case Laws

Domestic Case Laws

Nitin Babubhai Rohit v. Ashok Bhavanbhai Pate, [2018] 95 taxmann.com 14 (Gujarat)

IT : Where additions to income of assessee in respect of unexplained cash deposits in assessee's bank account was deleted by revisional authority, it was thereafter not open for Commissioner (Appeals) to still examine and pass an order on same issue

IT : Where assessee failed to explain cash deposits in his bank account, unsecured loans received by him and amount credited to his suspense account, revisional authority was unjustified in not making additions to income of assessee holding that transactions were of huge amount and additions of such huge amount being a serious matter should be examined again.

CLC & Sons (P.) Ltd. vs ACIT ,[2018] 95 taxmann.com 219 (Delhi - Trib.) (SB)

This issue is no more res integra in view of the judgment of the Summit court in CIT v. Smifs Securities Ltd. [2012] 348 ITR 302 (SC) in which it has been held that "goodwill will fall under the expression 'or any other business or commercial rights of similar nature'" and, hence, qualifies for depreciation u/s 32(1)

PCIT vs H. Nagaraja, 94 taxmann.com 464 (Karnataka)

Where business expenses claimed by assessee were partly disallowed by AO and said order was upheld by Commissioner (Appeals), it being a case of merger of assessment order with order passed by Commissioner (Appeals), question of Commissioner (Administration) exercising revisional jurisdiction under section 263 to once again examine very same issue so as to disallow entire expenses claimed by assessee did not arise

Oikos Apartments (P.) Ltd. vs ITO, 95 taxmann.com 44 (Bengaluru – Trib.)

Grant of licence of easement rights resulted in transfer as envisaged under section 2(47) and, thus, capital gains arising therefrom taxable on accrual basis irrespective of actual receipt of consideration

Pcit vs Manzil Dineshkumar Shah, 95 taxmann.com 46 (Gujarat)

Reassessment notice issued under section 148 just to verify information received by Assessing Officer from VAT Department relating to purchase made by assessee from hawala dealers, was not justified.

International Tax Laws

Renaissance Services BV vs [2018] 94 taxmann.com 465 (Mumbai - Trib.)

Consideration received by assessee for providing training services to Indian Hotels could not be held as FTS under article 12(5)(a) of India-Netherland tax treaty, as neither training services rendered by assessee to Indian Hotels could be held to be technical services, nor same could have been characterized as 'ancillary and subsidiary' services as per article 12(5)(a)

Where assessee failed to substantiate on basis of any clinching evidence that consideration received for services rendered by it to Indian Hotels were in nature of reimbursement of expenses incurred by assessee and there was no markup or profit made by rendering said services, its claim that same not being in nature of income, was not liable to be taxed in India, could not be accepted

Morgan Stanley Asia (Singapore) Pte. Ltd vs DDIT, 95 taxmann.com 165 (Mumbai - Trib.)

Payment received by assessee a Singapore based company from its associated enterprise in India viz. Morgan Stanley Advantage Services Private Limited (MSAS) towards reimbursement of salary for seconded employees, not FTS under Act as well as India-Singapore DTAA.

Evolv Clothing Co. (P.) Ltd., 94 taxmann.com 449 (Madras)

If service of market survey is only incidental to the function of commission agent, it cannot be regarded as fees for technical services. In absence of PE in India, Commission charges shall not be taxable in India.

Delmas S.A.S, vs DCIT, 94 taxmann.com 468 (Mumbai - Trib.)

IHC being part of income derived from operation of ship in international traffic is exempt under article 9 of India-France DTAA; hence, not taxable in India.

Nokia Networks OY vs JCIT, 94 taxmann.com 111 (Delhi - Trib.) (SB)

Income of Nokia Finland from offshore supply of telecom equipment manufactured in Finland in pursuance of supply contract with Indian telecom operators could not be brought to tax in India even where installation was done by its subsidiary Nokia India.

Transfer Pricing Case Laws

CIT vs Philips Software Centre (P.) Ltd, 95 taxmann.com 214 (Karnataka)

Observation of Tribunal that TP-provisions were inapplicable to assessee being a newly established undertaking in free trade zone claiming deduction under section 10A was a mere obiter which had not caused prejudice to revenue. Such finding was not a finding of fact. Though such an obiter appears to be made by Tribunal in ignorance of Proviso to sub-section (4) of section 92C, but there is no binding character of such findings or observations because as far as computation of income of assessee is concerned, Assessing Authority had not given any benefit of section 10-A to assessee with respect to Transfer Pricing Adjustments made in assessment order. Assessing Officer had disallowed section 10A benefit on TP-adjustment which was not reversed by Tribunal. Thus, no prejudice was caused to revenue. Accordingly, revenue's appeal against Tribunal decision was to be dismissed.

First Source Solutions Ltd. vs ACIT, 94 taxmann.com 264 (Mumbai - Trib.)

While numerator in PLI under TNMM is always net profit margin, denominator can either be cost incurred or sales effected or assets employed or any other relevant base; and denominator varies from case to case depending upon nature of transaction and host of other relevant factors.

Kaypee Electronics & Associates (P.) Ltd. vs DCIT, 94 taxmann.com 251 (Karnataka)

Where royalty paid was already forming part of operating cost, there is no necessity of separately benchmarking royalty

Advice America Software Development Center (P.) Ltd. 94 taxmann.com 179 (Bangalore - Trib.)

Software testing being only part of software development life cycle, it cannot be equated with software development services

Developing software products for clients would also be in nature of rendering software developing services

If a company is otherwise comparable, though that company follows a different financial year as its accounting year but results of such company for financial year

followed by assessee is available, then such company should also be considered for comparability analysis.

US Technology International (P.) Ltd vs DCIT, 94 taxmann.com 248 (Cochin - Trib.)

Where draft assessment order was framed wherein disallowance was proposed and assessee filed objection against said order, delay of one day in filing such objection was to be condoned in view of High Court judgment

COMPLIANCE CALENDER DURING THE MONTH OF JULY 2018

S.No	Date	Particulars	Form
1.	07/07/2018	Due date to deposit of TDS for june 2018	Online payment ITNS 281
2.	10/07/2018	Return of outward supplies of taxable goods and/or services for the Month of June 2018 (for Assesseees having turnover exceeding 1.5 Cr.)	GSTR -1
3.	18/07/2018	Quarterly Return for Composition Scheme Dealer	GSTR 4
4.	20/07/2018	Simple GSTR return for the Month of June 2018.	GSTR-3B
5.	15 /07/2018	The Factories Act, 1948	Refer to State Rules
6.	15 /07/2018	The Employees` Provident Funds & MP Act 1952 FOR JUNE 2018 (Provident Fund)	ECR
7.	15 /07/2018	The Employees` State Insurance Act 1948 (ESIC)	ESI CHALLAN
8.	31/07/2018	Filing of Quarterly GSTR-1 for April 2018 to June 2018.	Quarterly GSTR-1
9.	31/07/2018	Filing of GSTR-6 for the months from July 2017 to June 2018.	GSTR 6
10.	31 /07/2018	Filing of Quarterly Income Tax Return	1st Quarter eTDS Return

DISCLAIMERS

All reasonable care has been exercised in compilation of information in this report. However, the PKMG Law Chambers, its members on panel(s) or advisors or employees shall not in any way be responsible for the consequences of any action taken on the basis of reliance upon the contents.

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